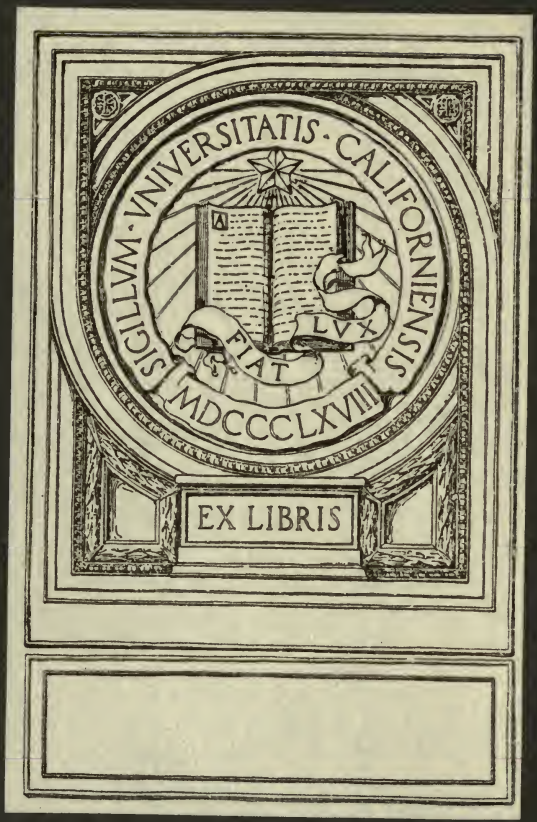
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ON

THE RECALL

COMPILED BY
JULIA E. JOHNSEN

MINNEAPOLIS
THE H. W. WILSON COMPANY
1911

BRIEF

Resolved, that all elective and appointive officials should be subject to recall.

Introduction

I. The question is important.
   A. Efficient administration and discharge of public office is intimately related to our sociological and economic welfare.
   B. Individual and collective rights are involved.
   C. Political principles are at stake.

II. It is generally granted.
   A. That under the recall a sworn petition signed by a specified number of qualified voters may be circulated to retire an undesirable official.
   B. That the incumbent must then contest with other nominated candidates in special election for the privilege of serving out the remainder of his term.
   C. That the person receiving majority vote in this special election assumes office until the expiration of the natural term.

III. The question of its desirability seems to present four main issues.
   A. Do we need it?
   B. Is it otherwise desirable?
   C. Is it just?
   D. Is it liable to abuse?

Affirmative

I. The recall is needed.
   A. There has been much dissatisfaction with officials in the past.
      1. Inefficient and lax administration has existed.
      2. Corrupt practices have prevailed.
         (a) Valuable franchises and rights have been given away.
         (b) Special interests have been served.
         (c) Graft has flourished.
      3. The will of the people has been disregarded.
   B. There is no adequate relief from evils induced by recreant officials.
      1. They can be indicted and removed only under the gravest charges.
      2. The initiative and referendum can correct only a small percent of specific evils.

II. It is otherwise desirable.
   A. It conforms to good political theory.
      1. It is republican, for
         (a) It brings government close to the people.
      2. It is constitutional.
      3. It is not essentially different from other political practices of our country.
         (a) Removals by impeachment.
         (b) Removals by vote of legislative bodies.
         (c) Initiative and referendum.
   B. It conforms to good business theory.
      1. It gives the people a right to dismiss an undesirable official, a right that is possessed by every business institution.
      2. Its mere presence is a corrective of evil.
         (a) It makes officials more responsive to the people.
         (b) It makes them more zealous in their duty.
         (c) It makes the people feel more responsible for the men they choose to office.
   C. It will not discourage good men from seeking office. In Los Angeles a larger percentage of good men

entered the contest after the installment of the recall than previously.

III. It is just.
  A. The percentage required for recall removes chances of unfairness unless petition is based on justice, for
    1. It is easier to secure signatures for a person than against him.
  B. He has the opportunity of vindicating himself.

IV. It is not liable to abuse.
  A. People will usually tolerate abuse for a considerable time before taking measures of correction against an official.
  B. Public interest will discourage displacement just as the official has become most useful in his office.
  C. Similar privileges elsewhere have not been abused.
    1. In New Jersey, where twenty-five tax payers can petition a supreme court justice for the appointment of a commission to investigate municipal and county affairs.

Negative

I. The recall is not needed.
  A. The system of representative government is not at fault, for
    1. The electors are responsible for the character of the men they place in office.
  B. We have adequate means of relief under present provisions.
    1. In impeachment.
    2. In publicity.
    3. In retirement at end of term of office.
    4. In persecution and removal for malfeasance in office.

II. It is not otherwise desirable.
  A. It does not conform to good political theory.
    1. A pure democracy, as distinguished from a representative democracy, is unsound.
      (a) It was tried in Greece.

(b) It is not essentially different from mob law.

2. It was rejected by the makers of the constitution of the U. S.

B. It does not conform to good business theory.

1. It would obstruct and demoralize administration.

(a) Officials could be recalled just when their experience made them most useful to their communities.

2. Removal by process of law is more expeditious and less burdensome to tax-payers.

3. It is not desirable as a moral deterrent.

(a) Men capable of being deterred by it are unfit for office.

(b) It will encourage demagogy.

C. It will discourage good men from seeking office.

1. Men will hesitate to risk their reputations in a position subject to recall.

2. Men of administrative abilities will find it obnoxious to mix in politics to retain office.

III. It is unjust.

A. The method of removal is unfair.

1. He is handicapped by charges preferred.

2. A stronger or more popular candidate may receive majority vote.

3. In case of tie vote with another candidate the incumbent is still removed from office.

B. He is denied vindication.

1. By lawful trial which shall pass on the question of his faithful discharge of duties.

2. By an opportunity to justify his policies by results.

IV. It is liable to abuse.

A. In times of excitement it will be used without due consideration.

1. It was so used to recall a Tacoma mayor for stopping a prize fight.

2. Popular feeling has at times been directed against many of our most useful public leaders.

B. It will play into the hands of politicians.

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Recall. Margaret A. Schaffner.

The recent use of the recall in Los Angeles has brought into view an interesting parallelism in legislation. The charter provision of Los Angeles is so like the cantonal law of Schaffhausen for the recall of officials that it seems to have been modeled after the old Swiss system.

The similarity between the two laws does not seem to have been generally noted. In discussing the recall provision of Los Angeles before the National Municipal League in 1905, a certain publicist maintained that the recall did not exist "in Switzerland . . . nor in Australia; nor, as far as we know, anywhere else on the globe." He hailed this feature of the Los Angeles charter as "extraordinary and entirely unique." In 1907 another publicist described the recall as "a governmental measure which Los Angeles has the proud distinction of being the first community in the world to adopt." With such declarations in view it is interesting to turn the pages of cantonal laws, generations old, and to read sections of Swiss recall provisions which have been transcribed with almost literal exactness into the municipal charters of many American cities.

A comparison of the recall provision of Los Angeles with the cantonal law of Schaffhausen is of special interest because the measure which Los Angeles first secured in 1903 has served as a model for most of the subsequent enactments in this country, while the present Schaffhausen law has a well authenticated history of revisions which seem to reach back to the

time of the customary Landsgemeinden, when the people exercised the right of election and of recall directly under the customary law.

The salient features of the two laws are very similar. This is true not only as regards the scope of the recall, the procedure for the petition, the method of conducting the removal election, and the tenure of office of the newly-elected officials, but also there is a marked similarity in such minor details as the requirements for the contents of the petition, the qualifications of signers, the verification of signatures, the filing and the examination of the petition, the provisions for amendment in case of insufficiency, and the transmission of the petition to some responsible body authorized to call a removal election if the petition be found sufficient.

Briefly summarized, the procedure in the Schaffhausen law provides that all demands for carrying out the popular right of recall must be presented to the Executive Council in the form of written petitions signed by at least one thousand qualified voters of the canton. The petitions may be entire or in sections, and in the latter case, the separate sections may not contain signatures from different communes. The qualifications of each signer of the petition must be certified by the president of the Communal Council of the commune in which the elector lives. Petitions which do not have the required number of signatures are to be returned at once with the statement that they are insufficient, but such petitions may be established if the lack is made good within the required time. Official publication is to be made of the receipt of the first section of the petition and the required number of signatures must be presented within sixty days after the receipt of the first section was officially announced. At the close of the specified time during which signatures may be legally added, the Executive Council is required to ascertain whether the number of signatures is sufficient and is to make official publication of the result of the examination. If the petition is found to contain one thousand or more signatures, the Executive Council is required to order a removal election within thirty days after the close of the period for completing the petition. If a legal demand for the recall of the Great Council and a similar one for the recall of the Executive

Council are pending at the same time, the former one is to be adjusted first.

Under the charter amendment of Los Angeles the petition demanding a recall must contain a general statement of the grounds for which the removal is sought, must be signed by at least twenty-five per cent of the qualified electors, and upon completion, must be filed with the city clerk. The petition may be in sections, but one of the signers of each paper is required to certify that the statements of the petition are true and that the signatures are genuine. If upon examination by the city clerk it is found that the petition does not have the requisite number of signatures, it may be amended within the specified time, or a new petition may be filed. If the petition is found to be sufficient the clerk must submit it to the city council without delay, and the Council is required to order a removal election in not less than thirty nor more than forty days from the date of the clerk's certificate that a sufficient petition is filed.

These comparisons might be extended to further provisions of the two laws. In a number of sections the parallelism is so marked that, when the proper substitutions for official terms are made, a substantially similar procedure is found in the Schaffhausen practice, followed for generations, and the Los Angeles method, seemingly so "unique" and "extraordinary."

And yet it were scarcely necessary to search the annals of old Schaffhausen nor to read her written laws to "discover" a political institution as old as the recall. Our own history furnishes an example of the practice when the delegates to the Continental Congress from Pennsylvania were recalled because they refused to sign the Declaration of Independence and other delegates were sent in their stead to carry out the imperative mandate of the people. Of still greater significance in the evolution of the recall is the parliamentary custom developed in England by which Parliament is dissolved and the members go back to the people and a new Parliament is formed. These various political institutions, some old in time, some seemingly new, seem to indicate that "representative government" may yet perfect a system under which "representatives" will really "represent" their constituents.

National Conference for Good City Government. 1906: pp. 382-7.

Recall as a Measure of Control by the People.

Thomas A. Davis.

In the United States we have been for many years under the impression that all our municipalities, counties and states were governed by the people, through their duly elected or appointed representatives. Of late years this impression has been shattered, and we have been forced to the inevitable conclusion that while the people go through the formality of electing representatives, in whose hands the reins of government are intrusted, in many cases these representatives, shortly after assuming the duties of office forget that they are responsible to the people whom they are supposed to represent and yield to corrupting influences and betray their trusts with far more ease than can be credited.

Before election candidates as a usual thing are profuse with promises, but it is remarkable how quickly after being elected these promises are forgotten and how the wishes of the people are thrown to the winds. Instead of conducting municipal, county and state governments for the people, in many cases we are forced to the conclusion that the members of these public bodies elected by the people even sit there as the paid representatives of private interests, while the public treasury is looked upon as the proper thing to be robbed and plundered.

As a usual thing candidates are elected or appointed to public office for terms ranging from one to five years. After they have been inducted into the office, no matter how shameful or degrading their conduct may be, there is not at the present time any adequate manner in which the public can call to account an erring public servant. The public servant becomes the public master, for the balance of his term, and in many cases we have seen these acts of a man committed during his term forgotten when his term is about to expire, and the person re-elected to the office with perhaps an increased majority. Of course such an occurrence as this is due to the apathy and indifference of the electors and so

long as they are willing to remain in that state, they probably get about as good government as they deserve.

If a man employs an agent for a term of years by contract, and that agent betrays his principal, the principal may terminate the contract and get rid of the faithless one. Office holders stand in the same position to the public as the agent does to the principal. They are simply the instruments for carrying on the business of the public, and if they are faithless in performing their duties the law should provide adequate means for getting rid of them and putting others in their places. * * *

The Recall is a method by which it is possible for the public to free itself from incompetent and objectionable officials. In the consideration of it here the first question naturally would be, Do we need it? It would appear to me to be unnecessary to go into any extended argument to convince all present and all who are not present that if the Recall will do what the provisions that I have stated allege, then we undoubtedly need it and need it very badly, and have needed it for a great many years. Probably there are very few here present who have followed municipal, county and state affairs in New Jersey who do not now conclude that had we the Recall in New Jersey in years gone by, and if things then happened that have happened, the law would certainly have had to work overtime. Without particularizing instances, we can recall to our minds cases within our knowledge where the people of our own neighborhoods would have welcomed it, in order to rid themselves of officials not only incompetent, but whom we believe to have yielded to the corrupting influence of money.

The next question that might be asked is, Is Recall fair to official and people? In Los Angeles twenty-five percent of the entire vote for an office is required to be signed to a petition before the machinery of Recall can be set in operation. Considering the fact that for an ordinary office there may be from three to six candidates this percentage would certainly seem to be large enough to remove the suspicion of unfairness because it is far easier to get a man to sign a petition for a person than it is to get him to sign one against a person. Were the Recall adopted in New Jersey the percentage might

not be fixed at twenty-five per cent; it might be more or it might be less. So far as the incumbent is concerned, after the petition is filed against him he still has the opportunity under the method of procedure to vindicate himself, and if he makes no move at all the law orders him put upon the ticket as a candidate for reelection. It seems, therefore, that the provisions are equitable in attempting to take care of both accused and accuser.

Query might be made, Is it not likely that the right to petition might be abused and petitions filed without just cause? I think we can safely say there would be no danger of abuse of the right to petition. The experience of those familiar with municipal bodies is, that even now the people of a neighborhood may tolerate an abuse of their rights for a considerable time before petitioning their local governing bodies for a correction of the abuse. Again, if the percentage of the electors required to sign is made, for example, twenty-five per cent, it would be impossible to procure such a number of signers, unless the petition was based upon justice. Publicity and public opinion are the great influences in our country today, and when the movement to put into operation the machinery of Recall is begun, it must receive the approval of the people or it will absolutely fail.

We have in the State of New Jersey today a law which permits a small number of taxpayers (twenty-five) to petition a Supreme Court Justice for the appointment of a commissioner to investigate municipal and county affairs. The number of signers required is so small that it might be easily abused, yet all we have to do is to read the newspaper accounts of such investigations to be convinced that in every case where application was made and a commissioner appointed, the investigation should have been made.

There is one provision of the Los Angeles plan which, to my mind, should be enlarged upon. * * * The Los Angeles plan apparently applies only to elective officials. I can see no good reason * * * why the officials affected should not be municipal, county and state officials, both elective and appointive.

In the municipalities today there are very few officials elected outside of the mayor, the governing body, and the

board of education. Practically all the other officials, such as assessors, tax commissioners, fire commissioners, police commissioners, boards of health, boards of assessment, and city officials are appointed either by the mayor or the governing body, while in the counties and state there are innumerable boards and officers that are not elected at all, but are appointed by an officer or a body, which is itself elected. It seems to me that the Recall should not stop as in Los Angeles at elective officers, but all officers, boards or bodies, whether elective or appointive, should be amenable to the public and it should be within the power of the people to call them to task whenever their conduct justifies it.

The method of procedure outlined in the Los Angeles statute covers the point as to elective municipal officers. Of course, if we go beyond this and embrace municipal, county and state officials, elective and appointive, the modus operandi would have to be framed to suit the case.

It is rather difficult to say, without discussion and consideration, what method of procedure should be adopted to bring the provisions of recall to bear upon an appointive officer. The Los Angeles provisions will not apply. This is a question that might well be discussed until a proper plan is adopted, if the suggestion appears to be a proper one. It seems to me that in the case of an appointive officer the petition to be signed by a certain percentage or number of taxpayers should be presented to the appointing power in the shape of charges, and the appointing power should either place the accused on trial before itself upon the charges, or appoint a commission outside of its own number to hear the charges and conduct the trial. If the accused is found guilty that should terminate his right to hold the office, and if not guilty he should continue therein.

Congressional Record. 47: 4574-83. August 22, 1911.

John E. Raker.

The initiative, the referendum, and the recall are closely connected parts of the same political theory. The people elect their representatives. If those representatives do not carry out

the will of the people, then the people initiate legislation. If their representatives transgress the will of the people, then the people, through the referendum, repeal the laws which their representatives have made. This is no more or less than the recall applied to the laws, and if not unrepublican in form here can not be considered unrepublican when applied to the interpreters of the laws. * * *

The question * * * whether the initiative, the referendum, and the recall are consistent with a republican form of government * * * makes it important that we ascertain what is meant by a republican form of government. It is an expression which all assume to understand, yet, judging from many unsuccessful attempts of eminent statesmen and writers to give it a clear meaning, it would seem that the phrase is not susceptible of precise definition. Speaking of the constitutions of the different States this question has been well expressed.

In Kiernan *v.* the City of Portland the decision was:

> If we resort for a criterion to the different principles on which different forms of government are established, we may define a republic to be, or at least may bestow that name on, a government which derives all its powers directly or indirectly from the great body of the people, and is administered by persons holding their offices during pleasure for a limited period or during good behavior. It is essential to such government that it be derived from the great body of society, not from any inconsiderable portion of a favored class of it. Another and more pointed definition by Mr. Justice Wilson, a member of the Constitutional Convention, who but a short time after the adoption of the Federal Constitution, in adverting to what is meant by a republican form of government, remarked: "As a citizen I know the government of that State (Georgia) to be republican, and my short definition of such a government is one constructed on this principle, that the supreme power resides in the body of the people." That is to say, any government in which the supreme power resides with the people is republican in form.
>
> Measured in the light of the above it is difficult to conceive of any system of lawmaking coming nearer to the great body of the people of the entire State, or by those comprising the various municipalities, than that now coming into use here, and so we are at a loss to understand how the adoption and use of this system can be held a departure from a republican form of government. It was the effort to escape the oppression resulting from governments controlled by the select few, so often ruling under the assumption that "might makes right," that gave birth to republics. Monarchial rulers refuse to recognize their accountability to the people governed by them. In a republic the converse is the rule. The tenure of office may be for a short or a long period, or even for life, yet those in office are at all times answerable, either directly or indirectly, to the people, and in proportion to their responsibility to those for whom they may be the public agents, and the nearer the power to enact the laws and control public servants lies with the great body of the people, the more nearly does a government take unto itself the form of a republic—

not in name alone, but in fact. From this it follows that each republic may differ in its political system or in the political machinery by which it moves, but so long as the ultimate control of its officials and affairs of state remain in its citizens, it will in the eye of all the republics be recognized as a government of that class. Of this we have many examples in Central and South America.

Mr. Thomas Jefferson, in 1816, when discussing the term "republic," defined and illustrated his view thereof as follows: "Indeed, it must be acknowledged that the term 'republic' is of very vague application in every language. Witness the self-styled Republics of Holland, Switzerland, Genoa, Venice, Poland. Were I to assign to this term a precise and definite idea, I would say, purely and simply, it means a government of its citizens in mass, acting directly and not personally, according to rules established by the majority, and that every other government is more or less republican in proportion as it has in its composition more or less of this ingredient of the direct action of the citizens."

Equity Series. 11: 79-80. July, 1909.

Advantages of the Recall. Roger Sherman Hoar.

There are two possible views concerning a republican form of government: first, that it is a government of deputies; second, that it is a government of representatives. Deputies, because of their superior wisdom, are chosen by the people to rule over them, and are designed to give a government *of* the people and *for* the people, but not *by* the people—a benevolent despotism under elected despots. Representatives are designed to give a government of the people, for the people, *and* by the people under the theory that, altho the populace may err, the combined judgment of the people may be more safely trusted than the judgment of individuals. If the people are not to be trusted, then give us deputies elected by an aristocracy; if the people are to be trusted, let us keep what now we have, representatives elected by the people.

The people *are* to be trusted. Then let us see that our representatives truly represent us. And if a given representative refuses to represent his constitutents, if he insists on putting his own will ahead of the will of the people, his own opinion ahead of the popular consensus, if, in other words, he usurps the power intrusted to him, and ceasing to be a representative, becomes a despotic deputy, he has outlived his usefulness and had better be recalled.

Some persons consider it a sign of strength of character to be "above the petty clamor of the rabble," as they put it. Would these same persons consider it strength of character for

a clerk, however competent and however great the incompetency of his master, to refuse to run the business as the master saw fit, after the master had distinctly expressed his opinion on the subject? This trait of character is usually known as obstinacy.

The old idea of popular government was for the people actually to do the governing, but with growing population this had to be given up as being too cumbersome, except in the case of town-meetings. The good result of this change has been the simplification of the legislative department; the bad results have been the growing irresponsibility and unresponsiveness of the legislators and the lack of interest of the populace. Altho it would be out of the question to return to the old system of total Direct Legislation, yet these evils of the present system can be partly cured by adopting the Initiative and Referendum. They can be entirely cured by adopting the Recall in addition; and even the Recall alone would be more effective than the other two together.

Under the Initiative and Referendum alone it would be impossible to refer to the people more than one-twentieth, or even a smaller percent, of the important measures; in the rest the legislators could have their way, regardless of popular opinion. Under the Recall, the most venal legislators would bow to the popular will, for fear of instant removal. The Initiative and Referendum would correct part of the results of the evils of delegated legislation; the Recall would remove the evils themselves. Under the Initiative and Referendum the people could make *some* of the laws as they saw fit; under the Recall the people could force the legislators to make all the laws as the people saw fit; deputies would become truly representative representatives.

Under the three forms of Direct Legislation together, the people will be able to express their exact will on the more important measures of the day, and to control the general trend of legislation in minor matters. There will no longer be the selection once in four years of picked men, and then the giving to them of free rein to disregard the people's will until just before the next election. The people will rule all the time, instead of only at elections. Initiative, Referendum, and Recall; but the greatest of these is Recall.

Pacific Monthly. 17: 455-60. April, 1907.

How Seattle Got the Recall. A. M. Parker.

The moral effect of the "Recall" in Seattle has been even more immediate than its promoters had anticipated. Citizens have not been slow to recognize the increase of power they enjoy. Business and professional classes, as well as the entire press, have shown a readiness to propose action along this line with respect to important questions which have come before the Council.

A conspicuous example of the effect of the measure is seen in the recent submission to popular vote of the municipal ownership of street railways. During the city campaigns both parties made platform declarations that the question should be submitted. The Municipal Ownership party elected only two councilmen and only two other members were in sympathy with the project. The remaining eleven were personally opposed to it. Yet the ordinance to submit the question received only one adverse vote, that of a Councilman who audaciously told his colleagues that they were voting affirmatively only out of "fear" of their constituents. Seattle has no other precedent of three-fourths of the members of the City Council voting against their personal bias to fulfill a campaign pledge.

The "Recall" existed in our government before the Constitution. Under the Articles of Confederation the states had the right to recall members of Congress at any time in their term of office and to choose others in their places. * * * The "Recall" is one of the manifestations of a present tendency to return to some of the more democratic institutions of revolutionary days.

Arena. 33: 51-2. January, 1905.

Recall of J. P. Davenport, Los Angeles. Eltweed Pomeroy.

Mr. J. P. Davenport, councilman for the sixth ward of Los Angeles, outraged the opinions of his constituents by voting for a printing contract giving the city's printing at a much higher rate than other competitors bid, to the Los

Angeles *Times*, and also by protecting the saloons. A petition for his recall was circulated by the Typographical Union, but on being taken into the courts on a technicality, it was thrown out by the judge. * * * Mr. Davenport appealed to the courts and Judge Ostler decided against him and in favor of the recall. There are three points in this decision which are very important as establishing precedents:

First. The judge decided that the reasons given in the petition were not in the nature of the charges on which a man is tried at court-martial or for his removal under civil-service rules, but were "general statements" "designed merely to enlighten the voters, similar to the grounds the mayor is required to make when he vetoes an ordinance," and that the Council, in calling the election under the mandatory clause in this recall part of the charter, could not consider whether the charges were true or false, but must call the election, leaving it to the people by their votes to decide whether the charges had sufficient foundation to warrant the discharge of this public servant and the appointment of another.

Second. The plaintiff held that the recall itself was unconstitutional and inconsistent with the spirit of the United States Constitution. The judge decided strongly against him on this point, saying in part that: "To say that an act is unconstitutional, without pointing out the particular section violated, is practically an admission that there is nothing in the suggestion."

Third. It was claimed that "the plaintiff has some kind of property in the office and therefore it cannot be taken from him without due process of law"; that the public had made a contract with the officer, under which he held the office until the end of the term, and that a recall violated this contract. The judge said: "The authorities are practically without conflict to the effect that a public office is not property, but a mere agency, which may be terminated at any time by the principal—the sovereign people; that the incumbent holds office by no contract or grant, and that he has no vested right therein."

National Conference for Good City Government. 1905: pp. 103-7.

Municipal Progress in Los Angeles. Charles D. Willard.

The value of the recall as a permanent political institution cannot be determined by one experiment, but there are certain objections that were offered to the system before its adoption which our two years of experience with it seems to have abolished. One was that it would discourage good men from seeking office. Two months after the recall election, the regular municipal nomination conventions were held and a larger percentage of good men entered the contest than at any time previously. Second, it was urged that frequent changes in the personnel of offices would result. But, as a matter of fact, it is a pretty serious undertaking to secure the signatures of 25 per cent of the voters, each name witnessed and sworn to as the law provides. Moreover, there is the American sentiment of fair play to be reckoned with, which will protect the officer who means to do what is right, from an unjust attack.

Whatever the theoretical disadvantages of the recall, or whatever drawbacks may ultimately develop in more extended practice, certainly it conforms to the logic of good business administration. No set of stockholders or owners of an important business enterprise would ever put a manager in absolute power with no means of deposing him, if he should prove unsatisfactory. Neither do business men choose a manager for a stated term of years with the expectation of replacing him with somebody else just about the time he has learned to be most useful to the enterprise. Why should not the simple logical rule of the corporations be applied to the municipality—let the people select their officers for an indefinite term, reserving always the power of recall? By this plan, the efficient man continues with the work, and the inefficient or unfaithful is soon eliminated.

Equity Series. 9: 4-6. July, 1907.

Recall in Los Angeles. John R. Haynes.

[An] alleged falling down of the beneficiary of the Recall has been used as an argument against the virtue and usefulness

of that measure, but that argument would apply with no less force against all officers elected at ordinary elections who had proved recreant to their trust. That the Recall is to some extent a deterrent against the consummation of vicious legislation is shown in its threatened use in a scheme to give away a valuable franchise along the river bed by our late council. When there was serious talk of putting the Recall provision in operation in the case of several members of the council, the ordinance granting the franchise was promptly withdrawn.

The proposed franchise was estimated to be worth $1,000,000. The only Recall election ever held here cost $8,500, therefore the city is $991,500 directly to the good by reason of the Recall provision in its charter. This is only one instance of the saving power of the Recall. * * *

The constitutionality of the Recall has been contested in three courts by corporations working thru the political machine, but it has been sustained in every court, and the passage and adoption in November last of senate amendment No. 2 renders its constitutionality beyond question.

City Hall. 12: 173-4. October, 1910.

Recall.

There is no danger that the recall will be abused. It will not be used until it is absolutely necessary. The people will be just and will be strongly inclined to stand by the preced[illegible] election. It would be a perversion of the recall to har[illegible] faithful public official. Such action could only come from enemies of popular government. It is safe to say that it wi[illegible] almost never be used for "light and transient causes." But it will safeguard important public interests against transient and unfaithful representatives.—La Follette's.

Congressional Record. 46: 4171-2. March 3, 1911.

Representative Government. Charles F. Scott.

The initiative and referendum, subversive as they are of the representative principle, do not compare in importance or in

possible power for evil with the recall. The statutes of every State in this Union provide a way by which a recreant official may be ousted from his office or otherwise punished. That way is by process of law, where charges must be specific, the testimony clear, and the judgment impartial. But what are we to think of a procedure under which an official is to be tried, not in a court by a jury of his peers and upon the testimony of witnesses sworn to tell the truth, but in the newspapers, on the street corners, and at political meetings? Can you conceive of a wider departure from the fundamental principles of justice that are written not only into the constitution of every civilized nation on the face of the earth, but upon the heart of every normal human being, the principle that every man accused of a crime has a right to confront his accusers, to examine them under oath, to rebut their evidence, and to have the judgment finally of men sworn to render a just and lawful verdict.

Small wonder that the argument oftenest heard in support of a proposition so abhorrent to the most primitive instincts of justice is that it will be seldom invoked and therefore can not do very much harm. I leave you to characterize as it deserves a law whose chief merit must lie in the rarity of its enforcement.

But will it do no harm, even if seldom enforced? It is urged that its presence on the statute books and the knowledge that it can be invoked will frighten public officials into good behavior. Passing by the very obvious suggestion that an official who needs to be scared into proper conduct ought never to have been elected in the first place, we may well inquire whether the real effect would not be to frighten men into demagogy—and thus to work immeasurably greater harm to the common weal than would ever be inflicted through the transgressions of deliberately bad men.

We have demagogues enough now when election to an office assures the tenure of it for two or four or six years. But if that tenure were only from hour to hour, if it were held at the whim of a powerful and unscrupulous newspaper, for example, or if it could be put in jeopardy by an affront which in the line of duty ought, we will say, to be given to some organization or faction or cabal, what could we expect? Is it not inevitable that such a system would drive out of our

public life the men of real character and courage and leave us only cowards and trimmers and time servers? May we not well hesitate to introduce into our political system a device which, had it been in vogue in the past, would have made it possible for the Tories to have recalled Washington, the copperheads to have recalled Lincoln, and the jingoes to have recalled McKinley?

American City. 4: 275. June, 1911.

Menace of the Recall.

When the local W. C. T. U. and the liquor dealers join hands to secure the recall of a mayor it is pretty certain that one group or the other acted without carefully weighing the evidence. That is the great danger with the hair-trigger recall system that some of our cities are adopting—it is apt to go off prematurely. It will take only one or two recall elections for inadequate reasons to make men who have reputations to lose very careful how they risk them by accepting elective city offices. It has been hard enough in the past to get such men to be candidates for civic office; and what we need in this country is so to readjust our city governments as to attract rather than repel men of this type. It looks as though the commission system might accomplish this, but it will ultimately fail to do so if it is hampered with as easy a recall system as some cities have adopted. Even if a man successfully defends himself against a recall, the fact that a small disgruntled minority may make his term of office a continuous election performance will make the whole thing obnoxious to men who want to be administrators rather than politicians. Moreover this system will ultimately play into the hands of the professional politicians whose machines are always ready for service, while the man they are trying to retire may have back of him no organization that can be relied upon in such an emergency. If we must have the recall it should be made so difficult that the machinery could be set in motion only by a great popular uprising against an official who had wantonly abused his trust. And for such emergencies we already have adequate legal recourse through prosecution and removal for malfeasance in office. The fact

is that ninety per cent of those who think they want the recall haven't given the matter any serious thought, while the other ten per cent belong to the type to whom easy change appeals more strongly than careful selection. It will be a great day for the United States when its people stop using their city governments as playthings, and treat them as seriously and with as great respect as do the nations of Europe.

America. 5: 198-9. June 10, 1911.

Recall. Henry Woods.

The Recall seems to vitiate authority. In his election a ruler may receive, it is true, a mandate, that is, he may be chosen on his undertaking to perform some specific act, or to follow some general policy. But this does not deprive him of the freedom of his office, as regards the carrying out in detail of his pledges, as well as all other things. At the next election he must give an account of his administration to the electors; but in the meantime they are subject to him, not he to them. The Recall, therefore, goes much further than the mandate. Its tendency is to transfer initiative from a lawful responsible superior to self-appointed irresponsible inspectors, and to make him depend, not so much on matured public opinion, which he should always respect, as on a momentary popular sentiment. When it succeeds in expelling corrupt officials the Recall may seem satisfactory; but there is danger of its getting into the hands of those who will use it against officials unwilling to accept dictation.

The Recall has, as yet, been applied in but a few cases, and those against whom it was directed were, to a certain extent, taken by surprise. A political party needs time to adjust itself to a new condition, but the resourcefulness of its leaders is always equal to the task. The defeat of the Recall of a corrupt administration would do far more to encourage it to graver misdeeds than any victory in a regular election.

Century. 82: 624-5. August, 1911.

Recall of Judges a Rash Experiment.

Something may perhaps be said for the recall of non-judicial and elective officials. It is much talked of nowadays as a useful weapon in municipal and in State administration. But those who propose to apply it even in that limited sphere are forced to admit, if they are sober-minded men, that it is a sword which may cut the hand that seeks to wield it, and that its use must be carefully guarded.

Thus, in the general law passed this year by the New Jersey Legislature, providing for a commission plan of government in those cities that choose to adopt it, there is a provision for the recall. But it is significantly hedged about. The language of the statute is: "No recall petition shall be filed against any officer until he has actually held his office for at least twelve months, and but one recall petition shall be filed against the same officer during his term of office."

What does this indicate if not that Governor Wilson and his advisers perceived the danger of misdirected passion, which might wrong both the city and one of its officials by removing him for an act of duty and of justice at the moment unpopular?

A system must stand or fall by its application to extreme cases. If the recall is good for mayors and governors, it is also good for Presidents. But if it had been possible to recall a President, there can be no doubt that Washington would have been recalled at the time of the excitement over the Jay Treaty, Lincoln in 1862, and Grover Cleveland in 1894.

Christian Science Monitor. May 26, 1911.

Possible Abuse of the Recall.

The most serious objection to the recall is that it will generally be employed in a period of agitation and excitement, unless measures shall be taken to postpone its operation, in all cases, for a sufficient length of time to permit public thought to pass through the cooling process. The argument against this is that it would enable unsatisfactory public servants to take

advantage of public indifference. On the other hand, a point that appeals very forcibly is that, if the people were more careful in the selection of their servants in the first place, the necessity of getting rid of them would not be so urgent in the second place.

Regarded as a preventive or restraining influence, especially in local affairs, the recall has much to recommend it. In fact, there can be no very serious objection to the principle of the recall, viewed in any light, if it be assumed that the temper of the public can be trusted, under the circumstances that would most frequently call for its use, to use it calmly, judiciously, without regard to personal or political feeling, and with nothing but the general welfare in view. In the last analysis the question is: Can the public trust its sudden impulses as fully as it can trust the safeguards that have been provided to protect it against them?—a question to be answered by experience rather than by argument.

Independent. 70: 1135. June 1, 1911.

Recall of Judges.

"It is the old question of direct against representative government which has been on trial from the earliest historical times. The framers of the Constitution were entirely familiar with it. The system of direct government had been in force among the most intelligent people of the world. We are apt to think that because we have made great inventions and discoveries, therefore we have immunity to violate sound political principles.

"How did this system of government work among the Greeks? They did not have these baffling questions that we have had thrust upon us in our complicated material civilization, and yet no man could be long prominent in public life before he would encounter antagonism, and unless he bowed to it he would be stricken down."